



COUNTY OF LOS ANGELES

CLAIMS BOARD

500 WEST TEMPLE STREET

LOS ANGELES, CALIFORNIA 90012

MEMBERS OF THE BOARD

December 5, 2005

Maria M. Oms
Auditor-Controller
John F. Krattli
Office of the County Counsel
Rocky Armfield
Chief Administrative Office

Honorable Board of Supervisors
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Re: **Sonia Hernandez v. County of Los Angeles**
Los Angeles Superior Court Case No. BC 267 369

Dear Supervisors:

The Claims Board recommends that:

1. The Board authorize settlement of the above-entitled action in the amount of \$500,000.
2. The Auditor-Controller be directed to draw a warrant to implement this settlement from the Fire Department.

Enclosed is the settlement request and a summary of the facts of the case.

Also enclosed for your information is the Corrective Action Report submitted by the Fire Department.

Return the executed, adopted copy to Georgene Salisbury, Suite 648
Kenneth Hahn Hall of Administration, Extension 4-9910.

Very truly yours,

Maria M. Oms, Chairperson
Los Angeles County Claims Board

MMO:gs

Enclosures

MEMORANDUM

November 14, 2005

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: CLIFTON W. ALBRIGHT
Albright, Yee & Schmit, LLP

ROGER H. GRANBO
Assistant County Counsel
Law Enforcement Division

RE: Sonia Hernandez, et al. v. County of Los Angeles
Los Angeles County Superior Court Case No. BC 267369

DATE OF
INCIDENT: May 16, 2001

AUTHORITY
REQUESTED: \$500,000

COUNTY
DEPARTMENT: Fire Department

CLAIMS BOARD ACTION:

☐

Approve

☐

Disapprove

☐

Recommend to Board of
Supervisors for Approval

_____, Chief Administrative Office
ROCKY A. ARMFIELD

_____, County Counsel
JOHN F. KRATTLI

_____, Auditor-Controller
MARIA M. OMS

on _____, 2005

SUMMARY

This is a recommendation to settle for \$500,000 the lawsuit filed by Sonia Hernandez, Dayana Hernandez, Luis Angel Hernandez, Mario Hernandez and Bertha Hernandez, for the wrongful death of their decedent, Luis Hernandez, who was killed in an auto accident with a Fire Department vehicle. Jovita Villagomez, who was injured in the accident, is also a plaintiff in the lawsuit and is seeking to recover damages for her injuries.

LEGAL PRINCIPLE

A public entity is responsible for the negligent and intentional acts of its employees when the acts are done in the course and scope of employment.

SUMMARY OF FACTS

On May 15, 2001, at approximately 9:15 p.m., a Los Angeles County Fire Department Engine was traveling west on Century Boulevard responding to an emergency, with its lights and sirens activated. As it approached the intersection at Doty Avenue against a red light, the Engine slowed to make sure the intersection was clear. The Engineer observed a Dodge Neon that appeared to be slowing to a stop at the intersection north on Doty Avenue, so the Engine proceeded through the intersection. However, the Neon did not stop for the Engine, and the vehicles collided in the intersection.

Jovita Villagomez was driving the Neon, and she sustained minor injuries. Her passenger, Luis Hernandez, sustained fatal injuries. His parents and adult children sued the Engineer and the County for wrongful death.

In November 2004, the case proceeded to trial on the liability issue only, and the jury returned a verdict that found the Engineer seventy-five percent liable and Ms. Villagomez twenty-five percent liable. This proposed settlement was reached before the damages phase of the trial.

DAMAGES

Should this matter proceed to the damages phase of the trial, we estimate the potential damages could be as follows:

Family's Loss of Care, Comfort, and Society

| | |
|-----------------------------|------------|
| Sonia Hernandez (daughter) | \$ 500,000 |
| Dayana Hernandez (daughter) | \$ 500,000 |
| Luis Hernandez (son) | \$ 500,000 |
| Mario Hernandez (father) | \$ 500,000 |
| Bertha Hernandez (mother) | \$ 500,000 |

| | |
|-----------------|----------|
| Burial expenses | \$ 5,000 |
|-----------------|----------|

Jovita Villagomez

| | |
|--------------------|------------------|
| Loss of Earnings | \$ 1,600 |
| Medical expenses | \$ 14,400 |
| Pain and suffering | <u>\$ 50,000</u> |

| | |
|--------------|---------------------------|
| Total | <u>\$2,571,000</u> |
|--------------|---------------------------|

The settlement calls for the County to pay \$500,000 to all plaintiffs for all of their claims for damages, costs and attorneys' fees.

STATUS OF CASE

The issues of liability and damages were bifurcated for trial. As noted above, trial of the liability issue has concluded. Trial on the issue of damages has been postponed, pending consideration of this settlement proposal.

This case has been aggressively litigated by the six plaintiffs. Numerous depositions have been taken, numerous motions have been made in an effort to narrow the issues for trial, and experts were retained and prepared for their deposition and trial testimony. In addition, this case was continued multiple times at plaintiffs' request, which required our attorneys to prepare for trial numerous times. Expenses incurred by the County in defense of this matter to date are attorneys' fees of \$255,690 and \$76,512 in costs.

The County filed a cross-complaint against Ms. Villagomez that settled prior to trial with the County collecting her policy limits of \$15,000.

EVALUATION

The County Engineer was found seventy-five percent liable for the damages incurred by Mr. Hernandez's family and Ms. Villagomez. A reasonable

settlement at this time will avoid the damages phase of the trial, which could result in a verdict that exceeds the proposed settlement.

We join with our third-party administrator, Carl Warren and Company, and our private counsel, Albright, Yee & Schmit, in recommending a settlement of this matter in the amount of \$500,000. The Fire Department concurs in this settlement recommendation.

APPROVED:

A handwritten signature in black ink, appearing to read "Roger H. Granbo", written over a horizontal line.

ROGER H. GRANBO
Assistant County Counsel
Law Enforcement Services Division

RGH:scr

**COUNTY OF LOS ANGELES FIRE DEPARTMENT
CORRECTIVE ACTION REPORT**

Date of Incident: May 15, 2001

Location of Incident: Intersection of Century Blvd. & Doty Ave., Inglewood

Incident Summary:

On May 15, 2001 at approximately 9:15 p.m. Engine 173, while on an emergency call, struck a private vehicle at the intersection of Century Blvd. & Doty Ave. in Inglewood. As a result of that collision the passenger in the private vehicle, Mr. Hernandez, sustained major injuries and died as a result.

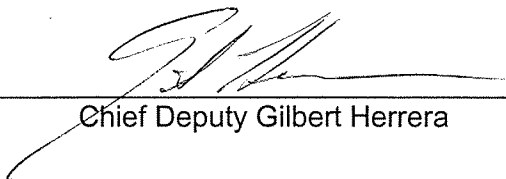
Risk Management Issue:

The Fire Department engineer driving the vehicle was cited by the Department as violating the following Standards of Behavior:

1. Abide by and conform to the Department's Rules and Regulations as well as all policies and procedures;
2. Abide by Department safety procedures;
3. Exercise good judgment.

Corrective Action Summary:

1. The employee was disciplined and suspended for 9 days without pay.
2. Established Battalion Driving Specialists to support employee driving requirements consistent with the State of California licensure requirements and the Fire Department driving policy requirements.
3. The Emergency Vehicles Operations Committee (EVOC) was formed by the Training Services Section to develop and deliver a Department wide Emergency Vehicle Operation Program for all personnel improving the training of personnel on defensive driving and general vehicle operations.
4. Applied for a Federal Grant to develop, support and operate driving simulators throughout the Department.



Chief Deputy Gilbert Herrera



Date